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In re Application of
STERNHAMN
U.S. Application No.: 09/700,121
PCT No.: PCT/SE99/00792
Int. Filing Date: 11 May 1999
Priority Date: 14 May 1998
Attorney Docket No.: Q61599
For: PALLET AND METHOD OF MANUFACTURING:
THE PALLET

DECISION ON PETITION

UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition For Withdrawal of Holding of Abandonment" filed 24 October 2003 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a petition under 37 CFR 1.181. No petition fees are required.

BACKGROUND

On 11 May 1999, applicant filed international application PCT/SE99/00792, which claimed priority of an earlier application filed 14 May 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 December 1999. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 14 November 2000.

On 09 November 2000, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a translation of the international application into English; an executed Declaration and Power of Attorney and a small entity statement.

On 08 January 2001, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International Application number and international filing date. In addition, applicant was advised of the need to pay the surcharge for providing an oath or declaration of the inventor later than thirty months from the priority date. Applicant was given two months to respond and advised that this time period could be extended

with a proper petition and payment of fees.

On 05 February 2001, applicant responded with a copy of the previously filed declaration and power of attorney, as well as, a stamped postcard receipt from the USPTO.

On 16 October 2003, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the NOTIFICATION OF MISSING REQUIREMENTS mailed 08 January 2001 within the time period set therein and that above-identified application was abandoned as to the United States.

On 24 October 2003, applicant filed the present petition to withdraw the holding of abandonment.

DISCUSSION

A review of the application file finds the original, executed declaration and power of attorney contained therein. It is clear from the "529 Rec'd PCT/PTO 09 NOV 2000" stamp that the document was filed with the USPTO on 09 November 2000. Thus, it is proper to grant applicant's petition to withdraw the holding of abandonment in the present application. It is noted that as to the question of applicant's response to the Form PCT/DO/EO/905 mailed 08 January 2001 in addition to the evidence provided by applicant, the original papers filed 05 February 2001 are also found in the application file.

Further, a review of the application file reveals that all of the requirements of 35 U.S.C. 371 for entry into the national stage in the United States were satisfied on 09 November 2000.

CONCLUSION

Applicant's petition under 37 CFR 1.181 is GRANTED.

The "NOTIFICATION OF MISSING REQUIREMENTS" (Form PCT/DO/EO/905) mailed 08 January 2001 is hereby VACATED.

The "NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909)" mailed on 16 October 2003 is hereby VACATED.

This application will be given an international application filing date of 11 May 1999 and a date of 09 November 2000 under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4). This application is being returned to the DO/EO/US for processing in accordance with this decision



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